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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/553,683	10/18/2006	David Andrew Anderson	19242	1846
23389	7590	10/03/2007	EXAMINER	
SCULLY SCOTT MURPHY & PRESSER, PC			KINSEY, NICOLE	
400 GARDEN CITY PLAZA			ART UNIT	PAPER NUMBER
SUITE 300			1648	
GARDEN CITY, NY 11530				
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		10/03/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/553,683	ANDERSON ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Nicole E. Kinsey, Ph.D.	1648

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) Responsive to communication(s) filed on 17 October 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) Claim(s) 1-45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) \_\_\_\_\_ is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) 1-45 are subject to restriction and/or election requirement.

### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Election/Restrictions***

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions, which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claims 1-11, with the technical feature of a virus-like particle comprising i) a fusion protein comprising a polypeptide of interest and a hepadnavirus large envelope polypeptide; and ii) a hepadnavirus small envelope polypeptide.

Group II, claims 12-21, with a technical feature of a polypeptide comprising a polypeptide of interest and a particle-associating portion of a large envelope polypeptide.

Group III, claims 22, 24-30 (in part) and 40-41 (in part), with a technical feature of a nucleic acid molecule comprising sequences that encode a polypeptide of interest and a particle-associating portion of a large envelope polypeptide.

Group IV, claims 23, 24-30 (in part) and 40-41 (in part), with a technical feature of a nucleic acid comprising sequences that encode i) a fusion protein comprising a polypeptide of interest and a particle-associating portion of a large envelope polypeptide; and ii) a hepadnavirus small envelope polypeptide.

Group V, claims 31 and 33-39 (in part), with a technical feature of a nucleic acid encoding a particle-associating portion of a large envelope polypeptide and one or more cloning sites.

Group VI, claims 32 and 33-39 (in part), with a technical feature of a nucleic acid encoding i) a particle-associating portion of a large envelope polypeptide and ii) a small envelope polypeptide and comprising one or more cloning sites.

Group VII, claims 42-44, with a technical feature of delivering a protein of interest by administering to a subject or cell a virus-like particle comprising the protein of interest and an avian hepadnavirus large envelope polypeptide.

Group VIII, claim 45, with a technical feature of making a virus-like particle comprising a protein of interest, a particle-associating portion of a large envelope polypeptide of an avian hepadnavirus, and a small envelope polypeptide.

The inventions listed as Groups I-VIII do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

The technical feature shared among the inventions listed as Groups I-IV, VII and VIII is a polypeptide or nucleic acid encoding a polypeptide comprising a protein of interest and a large envelope polypeptide. The noted shared technical feature does not provide a contribution over the prior art, as evidenced by the teachings of Kuroda et al. (*Journal of Biological Chemistry*, 1992, 267(3):1953-1961). Kuroda et al. teaches a polypeptide comprising the signal peptide from chicken lysozyme (i.e., protein of interest) and HBV large envelope polypeptide (Note: claim 1 does not require that the large envelope polypeptide be from an avian HBV). Hence, in the absence of a contribution over the prior art, the noted shared technical feature is not a shared special technical feature. Without a shared special technical feature, the inventions listed as Groups I-IV, VII and VIII lack unity with one another. Groups V and VI do not have a technical feature in common with each other or with the inventions of Groups I-IV, VII and VIII. Therefore, the inventions listed as Groups I-VIII lack unity with one another.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the

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requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 C.F.R. 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicole E. Kinsey, Ph.D. whose telephone number is (571) 272-9943. The examiner can normally be reached on Monday through Friday from 8:00 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bruce Campell can be reached on (571) 272-0974. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Nicole E. Kinsey, Ph.D.  
Examiner  
Art Unit 1648

/nk/

/Stacy B. Chen/ 9-24-2007  
Primary Examiner, TC1600